

Senate File 619

S-3194

1 Amend Senate File 619 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. Section 523C.1, Code 2019, is amended to read  
5 as follows:

6 **523C.1 Definitions.**

7 As used in [this chapter](#), unless the context otherwise  
8 requires:

9 1. "*Commissioner*" means the commissioner of insurance.

10 ~~2. "*Custodial account*" means an account established by~~  
11 ~~agreement between a licensed service company and a custodian~~  
12 ~~under [section 523C.5](#).~~

13 ~~3. "*Custodial agreement*" means an agreement entered into~~  
14 ~~between a licensed service company and a custodian under~~  
15 ~~[section 523C.5](#).~~

16 ~~4. "*Custodian*" means an institution meeting the requirements~~  
17 ~~established by the commissioner which institution has entered~~  
18 ~~into a custodial agreement or reserve account agreement with a~~  
19 ~~licensed service company.~~

20 ~~5. "*Depository*" means an institution designated by the~~  
21 ~~commissioner as an authorized custodian for purposes of~~  
22 ~~[sections 523C.5](#) and [523C.11](#).~~

23 ~~6.~~ 2. "*Licensed service company*" means a service company  
24 which is licensed by the commissioner pursuant to [this chapter](#).

25 3. "*Maintenance agreement*" means a contract of any duration  
26 that provides for scheduled maintenance to property.

27 4. "*Motor vehicle*" means any self-propelled vehicle subject  
28 to registration under chapter 321.

29 5. "*Motor vehicle manufacturer*" means any of the following:

30 a. A person who manufactures or produces motor vehicles  
31 and sells the motor vehicles under the person's trade name or  
32 label.

33 b. A person who is a wholly owned subsidiary of any person  
34 who manufactures or produces motor vehicles.

35 c. A person who holds a one hundred percent ownership

1 interest in another person who manufactures or produces motor  
2 vehicles.

3 d. A person who does not manufacture or produce motor  
4 vehicles, but for which motor vehicles are sold under the  
5 person's trade name or label.

6 e. A person who manufactures or produces motor vehicles,  
7 but the motor vehicles are sold under the trade name or label  
8 of another person.

9 f. A person who does not manufacture or produce motor  
10 vehicles, but who licenses the use of the person's trade name  
11 or label to another person pursuant to a written contract, who  
12 then sells motor vehicles under the trade name or label of the  
13 licensor.

14 6. "Motor vehicle service contract" means a contract or  
15 agreement sold for separate consideration for a specific  
16 duration that undertakes to perform the repair, replacement,  
17 or maintenance of a motor vehicle, or indemnification for  
18 such repair, replacement, or maintenance, for the operation  
19 or structural failure of a motor vehicle due to a defect in  
20 materials, workmanship, or normal wear and tear, with or  
21 without additional provisions for the incidental payment  
22 of indemnity under limited circumstances, including but  
23 not limited to motor vehicle towing, rental, emergency road  
24 service, and road hazard protection. "Motor vehicle service  
25 contract" also includes a contract or agreement sold for  
26 separate consideration for a specific duration that provides  
27 for any of the following services or products:

28 a. The repair or replacement of motor vehicle tires or  
29 wheels that are damaged as a result of contact with road  
30 hazards, including but not limited to potholes, rocks, wood  
31 debris, metal parts, glass, plastic, curbs, or composite  
32 scraps.

33 b. The removal of dents or creases on a motor vehicle  
34 under a process that does not use paint or affect the existing  
35 paint finish, and without sanding, bonding, or replacing motor

1 vehicle body panels.

2 c. The repair or replacement of motor vehicle windshields  
3 that are damaged as a result of contact with road hazards.

4 d. The replacement of motor vehicle keys or key fobs in the  
5 event that such device becomes inoperable, lost, or stolen.

6 e. Any other service or product approved by the  
7 commissioner.

8 7. "Premium" means the consideration paid to an insurer for  
9 a reimbursement insurance policy.

10 ~~7.~~ 8. "Record" means the same as defined in section 516E.1  
11 information stored or preserved in any medium, including in  
12 an electronic or paper format. A "record" includes but is  
13 not limited to documents, books, publications, accounts,  
14 correspondence, memoranda, agreements, computer files, film,  
15 microfilm, photographs, and audio or visual tapes.

16 9. "Reimbursement insurance policy" means a contractual  
17 liability insurance policy issued to a service company that  
18 either provides reimbursement to a service company under the  
19 terms of insured service contracts issued or sold by the  
20 service company or, in the event of nonperformance by the  
21 service company, pays, on behalf of the service company, all  
22 covered contractual obligations incurred by the service company  
23 under the terms of the insured service contracts issued or sold  
24 by the service company.

25 ~~8. "Reserve account agreement" means an agreement entered~~  
26 ~~into between a licensed service company and a depository under~~  
27 ~~section 523C.11.~~

28 ~~9.~~ 10. "Residential service contract" means a contract or  
29 agreement between a residential customer and a service company  
30 which undertakes, for a predetermined fee and for a specified  
31 any period of time, to service, maintain, repair, or replace,  
32 or indemnify expenses for all or any part of the operational or  
33 structural components, appliances, or electrical, mechanical,  
34 plumbing, heating, cooling, or air-conditioning systems of  
35 residential property containing not more than four dwelling

1 ~~units~~ in the state which fails due to normal wear or tear or  
2 inherent defect. "Residential service contract" also includes  
3 a contract which provides for the service, repair, replacement,  
4 or maintenance of property for damage resulting from power  
5 surges, roof leakage, and accidental damage.

6 ~~10.~~ 11. "Service company" means a person who issues and  
7 performs, or arranges to perform, is contractually obligated to  
8 perform services pursuant to a motor vehicle service contract  
9 or residential service contract.

10 12. "Service contract" means a motor vehicle service  
11 contract or residential service contract.

12 13. "Warranty" means a statement made solely by the  
13 manufacturer, importer, or seller of property or services  
14 without consideration, that is not negotiated or separated from  
15 the sale of the product and is incidental to the sale of the  
16 product, and that guarantees indemnity for defective parts,  
17 mechanical or electrical breakdown, and labor or other remedial  
18 measures, such as repair or replacement of the property or  
19 repetition of services.

20 Sec. 2. Section 523C.2, Code 2019, is amended to read as  
21 follows:

22 **523C.2 License required.**

23 1. A person shall not issue a, offer for sale, or sell a  
24 motor vehicle service contract or residential service contract  
25 or undertake or arrange to perform services pursuant to a  
26 residential service contract in this state unless the person  
27 is a corporation or other form of organization approved by the  
28 commissioner by rule and is a licensed as a service company  
29 under this chapter.

30 2. The licensure requirements of this chapter shall not  
31 apply to any person who provides support services or works  
32 under the direction of a licensed service company in connection  
33 with the issuance, offer for sale, or sale of a service  
34 contract in this state, including but not limited to a person  
35 who provides marketing, administrative, or technical support.

1     Sec. 3. Section 523C.3, Code 2019, is amended to read as  
2 follows:

3     **523C.3 Application for license.**

4     1. Application for a license as a service company shall  
5 be made to and filed with the commissioner on forms approved  
6 by the commissioner and shall include all of the following  
7 information:

8     a. The name and principal address of the applicant.

9     b. The state of incorporation of the applicant.

10    c. The name and address of the applicant's registered agent  
11 for service of process within Iowa.

12    d. A certificate of good standing for the applicant issued  
13 by the secretary of state and dated not more than thirty days  
14 prior to the date of the application.

15    e. Evidence of compliance with section 523C.5.

16    f. A copy of each motor vehicle service contract form to be  
17 used or issued in this state, if applicable.

18    g. A copy of each residential service contract form to be  
19 used or issued in this state, if applicable.

20    2. The application shall be accompanied by all of the  
21 following:

22    ~~a. A certificate of good standing for the applicant issued~~  
23 ~~by the secretary of state and dated not more than thirty days~~  
24 ~~prior to the date of the application.~~

25    ~~b. A surety bond, a copy of the receipt from the treasurer~~  
26 ~~of state that a cash deposit has been made, or a copy of a~~  
27 ~~custodial agreement as provided in [section 523C.5](#).~~

28    ~~c. A copy of the most recent financial statement, including~~  
29 ~~balance sheets and related statements of income, of the~~  
30 ~~applicant, prepared in accordance with generally accepted~~  
31 ~~accounting principles, audited by a certified public accountant~~  
32 ~~and dated not more than twelve months prior to the date of the~~  
33 ~~application.~~

34    ~~d. An affidavit of an authorized officer of the service~~  
35 ~~company stating the number of contracts issued by the service~~

1 ~~company in the preceding calendar year, and stating that the~~  
2 ~~net worth of the service company satisfies the requirements of~~  
3 ~~section 523C.6.~~

4 ~~e.~~ a. A license fee in the amount of ~~two~~ five hundred fifty  
5 dollars.

6 b. If applicable, a fee in the amount of fifty dollars  
7 for each motor vehicle service contract form submitted in an  
8 application as provided in subsection 1, paragraph "f".

9 3. If the application contains the required information and  
10 is accompanied by the items set forth in subsection 2, and if  
11 the net worth requirements of ~~section 523C.6~~ are satisfied, as  
12 evidenced by the audited financial statements, the commissioner  
13 shall issue the license. If the form of application is not  
14 properly completed or if the required accompanying documents  
15 are not furnished or in proper form, the commissioner shall  
16 not issue the license and shall give the applicant written  
17 notice of the grounds for not issuing the license. A notice  
18 of license denial shall be accompanied by a refund of fifty  
19 percent of the fee submitted with the application.

20 4. Fees collected under ~~this section~~ shall be deposited as  
21 provided in ~~section 505.7~~ 523C.24.

22 Sec. 4. Section 523C.4, Code 2019, is amended to read as  
23 follows:

24 **523C.4 License expiration and renewal.**

25 1. Each license issued under ~~this chapter~~ shall expire  
26 ~~on June 30 next~~ be valid for a period of one year and shall  
27 be renewed by August 31 of each year following the date of  
28 issuance. If the service company maintains in force the surety  
29 bond described in ~~section 523C.5~~ and if its license is not  
30 subject to or under suspension or revocation under section  
31 523C.9, its license shall be renewed by the commissioner upon  
32 receipt by the commissioner on or before the expiration date  
33 of a renewal application accompanied by the items required by  
34 ~~section 523C.3, subsection 2, paragraphs "b", "c", "d", and "e",~~  
35 and ~~section 523C.15.~~

1     2. An application for renewal shall include the information  
2 required for an initial license as described in section 523C.3,  
3 subsection 1.

4     3. The renewal application shall be accompanied by all of  
5 the following:

6     a. A license renewal fee in the amount of five hundred  
7 dollars.

8     b. If applicable, a fee in the amount of three percent of  
9 the aggregate amount of payments the licensee received for the  
10 sale or issuance of residential service contracts in this state  
11 during the preceding fiscal year, provided that such fee shall  
12 be no less than one hundred dollars and no greater than fifty  
13 thousand dollars.

14     c. If applicable, a fee in the amount of fifty dollars  
15 for each motor vehicle service contract form submitted in a  
16 renewal application as provided in section 523C.3, subsection  
17 1, paragraph "f".

18     d. Information regarding the number of motor vehicle service  
19 contracts or residential service contracts issued during the  
20 preceding fiscal year, the number canceled or expired during  
21 the preceding fiscal year, the number in effect at the end of  
22 the preceding fiscal year, and the amount of service contract  
23 fees received during the preceding fiscal year.

24     4. If the commissioner denies renewal of the license, the  
25 denial shall be in writing setting forth the grounds for denial  
26 and shall be accompanied by a refund of fifty percent of the  
27 license renewal fee.

28     5. In addition to the annual license renewal requirements  
29 as provided in this section, a licensee shall report to the  
30 commissioner any material change in information submitted by  
31 the licensee in its initial license application which has  
32 not been reported to the commissioner, including a change in  
33 contact information, a change in ownership, or any other change  
34 which substantially affects the licensee's operations in this  
35 state.

1     Sec. 5. Section 523C.5, Code 2019, is amended by striking  
2 the section and inserting in lieu thereof the following:

3     **523C.5 Financial responsibility — demonstration**  
4 **requirements.**

5     In order to assure the faithful performance of a service  
6 company's obligations to its contract holders in this state,  
7 a licensed service company shall demonstrate financial  
8 responsibility to the commissioner by satisfying one of the  
9 following, as evidenced by the service company:

10     1. Insuring all motor vehicle service contracts and  
11 residential service contracts offered for sale in this state  
12 under a reimbursement insurance policy that complies with  
13 section 523C.6.

14     2. Doing both of the following:

15     a. Maintaining a funded reserve account for the service  
16 company's obligations under any issued and outstanding service  
17 contracts in this state, in an amount no less than forty  
18 percent of gross consideration received, less claims paid, for  
19 the sale of all service contracts issued and in force in this  
20 state. The reserve account shall be subject to examination and  
21 review by the commissioner.

22     b. Placing in trust with the commissioner a financial  
23 security deposit in an amount no less than five percent of  
24 the gross consideration received by the service company,  
25 less claims paid, for the sale of all motor vehicle service  
26 contracts and residential service contracts issued and in force  
27 in this state, but not less than twenty-five thousand dollars,  
28 consisting of one of the following:

29         (1) Cash.

30         (2) Securities of the type eligible for deposit by insurers  
31 authorized to transact business in this state.

32         (3) Certificates of deposit.

33         (4) A surety bond issued by an authorized surety company.

34         (5) Another form of security as prescribed by the  
35 commissioner by rule.



1     3. Doing both of the following:

2     *a.* Maintaining, on its own or together with a parent

3 company, a minimum net worth or stockholders' equity of one

4 hundred million dollars or more.

5     *b.* Upon request from the commissioner, providing either:

6         (1) A copy of the service company's financial statements.

7         (2) If the service company's financial statements are

8 consolidated with those of its parent company, a copy of the

9 parent company's most recent form 10-K or form 20-F filed with

10 the federal securities and exchange commission within the last

11 calendar year, or if the parent company does not file with

12 the federal securities and exchange commission, a copy of the

13 parent company's audited financial statements showing a net

14 worth of at least one hundred million dollars. If the service

15 company's financial statements are consolidated with those of

16 its parent company, the service company shall also provide a

17 copy of a written agreement by the parent company guaranteeing

18 the obligations of the service company under motor vehicle

19 service contracts and residential service contracts issued and

20 outstanding by the service company in this state.

21     Sec. 6. Section 523C.6, Code 2019, is amended by striking

22 the section and inserting in lieu thereof the following:

23         **523C.6 Reimbursement insurance policy requirements — insurer**

24 **qualifications.**

25         1. *Requirements.* A reimbursement insurance policy insuring

26 a motor vehicle service contract or residential service

27 contract issued, sold, or offered for sale in this state shall

28 provide for all of the following:

29         *a.* The reimbursement insurance policy shall obligate the

30 insurer that issued such policy to reimburse or pay on behalf

31 of the service company any covered sums that the service

32 company is legally obligated to pay according to the terms of

33 the contract or, in the event of nonperformance by the service

34 company, provide the service which the service company is

35 legally obligated to perform according to the terms of the

1 service contract, which shall be conspicuously stated in the  
2 reimbursement insurance policy.

3     *b.* The reimbursement insurance policy shall entitle a  
4 service contract holder to make a claim directly against the  
5 insurance policy if the service company fails to pay or provide  
6 service on a claim within sixty days after proof of loss is  
7 filed with the service company.

8     *c.* The insurer that issued a reimbursement insurance policy  
9 shall be deemed to have received the premiums upon the payment  
10 of the total purchase price of the service contract by the  
11 service contract holder.

12     2. *Termination.* As applicable, an insurer that issued a  
13 reimbursement insurance policy shall not terminate the policy  
14 unless a written notice has been received by the commissioner  
15 and by each applicable service company. The notice shall  
16 fix the date of termination at a date no earlier than ten  
17 days after receipt of the notice by the commissioner. The  
18 termination of a reimbursement insurance policy shall not  
19 reduce the issuer's responsibility for a service contract  
20 issued by an insured service company prior to the date of  
21 termination.

22     3. *Indemnification or subrogation.* This section does  
23 not prevent or limit the right of an insurer that issued a  
24 reimbursement insurance policy to seek indemnification from or  
25 subrogation against a service company if the insurer pays or  
26 is obligated to pay a service contract holder sums that the  
27 service company was obligated to pay pursuant to the provisions  
28 of a service contract or pursuant to a contractual agreement.

29     4. *Premium tax liability.* Payments for the purchase price  
30 of a service contract by a service contract holder shall be  
31 exempt from premium tax. However, premiums shall be subject  
32 to premium tax.

33     5. *Qualifications of insurer.* An insurer issuing a  
34 reimbursement insurance policy under this chapter shall be  
35 authorized, registered, or otherwise permitted to transact

1 business in this state and shall meet one of the following  
2 requirements:

3     *a.* At the time the policy is filed with the commissioner,  
4 and continuously thereafter, the insurer maintains surplus  
5 as to policyholders and paid-in capital of at least fifteen  
6 million dollars and annually files copies of the insurer's  
7 financial statements, national association of insurance  
8 commissioners annual statement, and actuarial certification, if  
9 required and filed in the insurer's state of domicile.

10     *b.* At the time the policy is filed with the commissioner and  
11 continuously thereafter, the insurer does all of the following:

12         (1) Maintains surplus as to policyholders and paid-in  
13 capital of less than fifteen million dollars but at least ten  
14 million dollars.

15         (2) Demonstrates to the satisfaction of the commissioner  
16 that the insurer maintains a ratio of net written premiums,  
17 wherever written, to surplus as to policyholders and paid-in  
18 capital of not greater than three to one.

19         (3) Files copies annually of the insurer's financial  
20 statements, national association of insurance commissioners  
21 annual statement, and actuarial certification, if required and  
22 filed in the insurer's state of domicile.

23     Sec. 7. Section 523C.7, Code 2019, is amended by striking  
24 the section and inserting in lieu thereof the following:

25         **523C.7 Disclosure to service contract holders — contract**  
26 **form — required provisions.**

27         1. A motor vehicle service contract or residential service  
28 contract shall not be issued, sold, or offered for sale in this  
29 state unless the service company does all of the following:

30             *a.* Provides a receipt for the purchase of the service  
31 contract to the service contract holder.

32             *b.* Provides a copy of the service contract to the service  
33 contract holder within a reasonable period of time after the  
34 date of purchase of the service contract.

35             *c.* Provides a complete sample copy of the terms and

1 conditions of the service contract to the service contract  
2 holder prior to the date of purchase. A service company may  
3 comply with this paragraph by providing the service contract  
4 holder with a complete sample copy of the terms or conditions  
5 of the service contract, or directing the service contract  
6 holder to an internet site containing a complete sample copy of  
7 the terms and conditions of the service contract.

8 2. A motor vehicle service contract or residential service  
9 contract issued, sold, or offered for sale in this state shall  
10 comply with all of the following, as applicable:

11 a. A service contract shall be written in clear,  
12 understandable language in at least eight point font.

13 b. (1) A service contract insured by a reimbursement  
14 insurance policy as provided in section 523C.5, subsection 1,  
15 shall include a statement in substantially the following form:

16 Obligations of the service company under this service  
17 contract are guaranteed under a reimbursement insurance policy.  
18 If the service company fails to pay or provide service on a  
19 claim within sixty days after proof of loss has been filed with  
20 the service company, the service contract holder is entitled  
21 to make a claim directly against the reimbursement insurance  
22 policy.

23 (2) A service contract insured by a reimbursement insurance  
24 policy shall conspicuously state the name and address of the  
25 issuer of the reimbursement insurance policy for that service  
26 contract. A claim against a reimbursement insurance policy  
27 shall also include a claim for return of any refund due in  
28 accordance with paragraphs "k" and "l".

29 c. A service contract not insured under a reimbursement  
30 insurance policy shall contain a statement in substantially the  
31 following form:

32 Obligations of the service company under this service  
33 contract are backed by the full faith and credit of the service  
34 company and are not guaranteed under a reimbursement insurance  
35 policy.

1     *d.* A service contract shall state the name and address of  
2 the service company obligated to perform services under the  
3 contract, and shall conspicuously identify the service company,  
4 any third-party administrator, and the service contract holder  
5 to the extent that the name and address of the service contract  
6 holder has been furnished. The identities of such parties are  
7 not required to be printed on the contract in advance and may  
8 be added to the contract at the time of sale.

9     *e.* A service contract shall clearly state the total purchase  
10 price of the service contract and the terms under which the  
11 service contract is sold. The total purchase price is not  
12 required to be printed on the contract in advance and may be  
13 added to the contract at the time of sale.

14    *f.* If prior approval of repair work is required, a service  
15 contract shall conspicuously describe the procedure for  
16 obtaining prior approval and for making a claim, including a  
17 toll-free telephone number for claim service, and the procedure  
18 for obtaining emergency repairs performed outside of normal  
19 business hours.

20    *g.* A service contract shall clearly state the existence of  
21 any deductible amount.

22    *h.* A service contract shall specify the merchandise  
23 or services, or both, to be provided and any limitations,  
24 exceptions, or exclusions.

25    *i.* A service contract shall clearly state the conditions on  
26 which the use of substitute parts or services will be allowed.  
27 Such conditions shall comply with applicable state and federal  
28 laws.

29    *j.* A service contract shall clearly state any terms,  
30 restrictions, or conditions governing the transferability of  
31 the service contract.

32    *k.* A service contract shall clearly state the terms and  
33 conditions governing the cancellation of the contract prior  
34 to the termination or expiration date of the contract by the  
35 service company or the service contract holder. If the service

1 company cancels the contract, the service company shall mail a  
2 written notice of termination to the service contract holder  
3 at least fifteen days before the date of the termination.  
4 Prior notice of cancellation by the service company is not  
5 required if the reason for cancellation is nonpayment of the  
6 purchase price, a material misrepresentation by the service  
7 contract holder to the service company or its administrator, or  
8 a substantial breach of duties by the service contract holder  
9 relating to the covered product or its use. The notice of  
10 cancellation shall state the effective date of the cancellation  
11 and the reason for the cancellation. If a service contract  
12 is canceled by the service company for any reason other than  
13 nonpayment of the purchase price, the service company shall  
14 refund the service contract holder in an amount equal to one  
15 hundred percent of the unearned purchase price paid, calculated  
16 on a pro rata basis based upon elapsed time or mileage,  
17 less any claims paid. The service company may also charge a  
18 reasonable administrative fee in an amount no greater than ten  
19 percent of the total purchase price.

20 1. (1) A service contract shall permit the original  
21 service contract holder that purchased the contract to cancel  
22 and return the service contract within at least twenty days  
23 of the date of mailing the service contract to the service  
24 contract holder or within at least ten days after delivery of  
25 the service contract if the service contract is delivered at  
26 the time of sale of the service contract, or within a longer  
27 period of time as permitted under the service contract. If no  
28 claim has been made under the service contract prior to its  
29 return, the service contract is void and the full purchase  
30 price of the service contract shall be refunded to the service  
31 contract holder. A ten percent penalty shall be added each  
32 month to a refund that is not paid to a service contract holder  
33 within thirty days of the return of the service contract to the  
34 service company.

35 (2) If the service contract holder cancels the service

1 contract outside of the applicable time as provided in  
2 subparagraph (1) or after a claim is made under the service  
3 contract, the service company shall refund the service contract  
4 holder in an amount equal to one hundred percent of the  
5 unearned purchase price paid, calculated on a pro rata basis  
6 based upon elapsed time or mileage, less any claims paid. The  
7 service company may also charge a reasonable administrative fee  
8 in an amount no greater than ten percent of the total purchase  
9 price.

10 *m.* A service contract shall set forth all of the obligations  
11 and duties of the service contract holder, including but not  
12 limited to the duty to protect against any further damage,  
13 and the obligation to follow an owner's manual or any other  
14 required service or maintenance.

15 *n.* A service contract shall clearly state whether or not  
16 the contract provides for or excludes consequential damages  
17 or preexisting conditions, if applicable. A service contract  
18 may, but is not required to, cover damage resulting from rust,  
19 corrosion, or damage caused by a part or system which is not  
20 covered under the service contract.

21 *o.* A service contract shall clearly state the fee, if any,  
22 charged on the service contract holder for making a service  
23 call.

24 *p.* A service contract shall state the name and address of  
25 the commissioner.

26 Sec. 8. Section 523C.9, Code 2019, is amended to read as  
27 follows:

28 **523C.9 Suspension or revocation of license.**

29 ~~1. In addition to the license revocation provisions of~~  
30 ~~section 523C.5, the~~ The commissioner may suspend or revoke or  
31 refuse to renew the license of a service company for any of the  
32 following grounds:

33 ~~a.~~ 1. The service company violated a lawful order of the  
34 commissioner or any provision of [this chapter](#).

35 ~~b.~~ 2. The service company failed to pay any final judgment

1 rendered against it in this state within sixty days after the  
2 judgment became final.

3 ~~e.~~ 3. The service company has without just cause refused  
4 to perform or negligently or incompetently performed services  
5 required to be performed under its ~~residential~~ service  
6 contracts and the refusal, or negligent or incompetent  
7 performance has occurred with such frequency, as the  
8 commissioner determines, as to indicate the general business  
9 practices of the service company.

10 ~~d.~~ 4. The service company violated [section 523C.13](#).

11 ~~e.~~ 5. The service company failed to ~~maintain the net worth~~  
12 ~~required by [section 523C.6](#)~~ demonstrate financial responsibility  
13 pursuant to section 523C.5.

14 ~~f.~~ ~~The service company failed to maintain the reserve~~  
15 ~~account required by [section 523C.11](#).~~

16 ~~g.~~ 6. The service company failed to maintain its corporate  
17 certificate of good standing with the secretary of state.

18 ~~2.~~ ~~If the license of a service company is terminated~~  
19 ~~under [section 523C.5](#) because of failure to maintain bond, the~~  
20 ~~commissioner shall give written notice of termination to the~~  
21 ~~service company. The notice shall include the effective date~~  
22 ~~of the termination.~~

23 Sec. 9. Section 523C.12, Code 2019, is amended to read as  
24 follows:

25 **523C.12 Optional examination.**

26 The commissioner or a designee of the commissioner may  
27 make an examination of the books and records of a service  
28 company, including copies of contracts and records of claims  
29 and expenditures, and verify its assets, liabilities, and  
30 reserves. The actual costs of the examination shall be borne  
31 by the service company. The costs of an examination under this  
32 section shall not exceed an amount equal to ten percent of the  
33 service company's reported net income in the previous fiscal  
34 year.

35 Sec. 10. Section 523C.13, Code 2019, is amended to read as



1 follows:

2     **523C.13 Prohibited acts or practices — penalty — violations**  
3 **— contracts voided.**

4     1. A licensed service company which offers motor  
5 vehicle service contracts for sale in this state, or its  
6 representative, shall not, directly or indirectly, represent in  
7 any manner, whether by written solicitation or telemarketing, a  
8 false, deceptive, or misleading statement with respect to any  
9 of the following:

10     a. Statements regarding the service company's affiliation  
11 with a motor vehicle manufacturer or importer.

12     b. Statements regarding the validity or expiration of a  
13 warranty.

14     c. Statements regarding a motor vehicle service contract  
15 holder's coverage under a motor vehicle service contract,  
16 including statements suggesting that the service contract  
17 holder must purchase a new service contract in order to  
18 maintain coverage under the existing service contract or  
19 warranty.

20     2. The commissioner shall may adopt rules which regulate  
21 motor vehicle service contracts and residential service  
22 contracts to prohibit misrepresentation, false advertising,  
23 defamation, boycotts, coercion, intimidation, false statements  
24 and entries and unfair discrimination or practices. If the  
25 commissioner finds that a person has violated the rules adopted  
26 under this section, the commissioner may order any or all of  
27 the following:

28     ~~1.~~ a. Payment of a civil penalty of not more than one  
29 thousand dollars for each and every act or violation, but not  
30 to exceed an aggregate of ten thousand dollars, unless the  
31 person knew or reasonably should have known the person was in  
32 violation of this section, in which case the penalty shall be  
33 not more than five thousand dollars for each and every act or  
34 violation, but not to exceed an aggregate penalty of fifty  
35 thousand dollars in any one six-month period. The commissioner

1 shall, if it finds the violations of **this section** were  
2 directed, encouraged, condoned, ignored, or ratified by the  
3 employer of such person, assess such penalty to the employer  
4 and not such person. Any civil penalties collected under this  
5 subsection shall be deposited as provided in **section 505.7**.

6 ~~2.~~ b. Suspension or revocation of the license of a person,  
7 if the person knew or reasonably should have known the person  
8 was in violation of **this section**.

9 3. A violation of this chapter constitutes an unlawful  
10 practice pursuant to section 714.16.

11 4. A service contract issued or sold in this state is void  
12 if the person that issued or sold the service contract, at the  
13 time of issuance or sale, was not licensed as a service company  
14 under this chapter.

15 Sec. 11. Section 523C.15, Code 2019, is amended to read as  
16 follows:

17 **523C.15 Annual report.**

18 A licensed service company that does not demonstrate  
19 financial responsibility by insuring service contracts under a  
20 reimbursement insurance policy as provided in section 523C.5,  
21 subsection 1, shall file with the commissioner an annual  
22 report within ninety days of the close of its fiscal no later  
23 than August 31 of each year. The annual report shall be in  
24 a form prescribed by the commissioner and contain all of the  
25 following:

26 1. A current financial statement including a balance  
27 sheet and statement of operations prepared in accordance with  
28 generally accepted accounting principles and certified by an  
29 independent certified public accountant.

30 ~~2. The number of residential service contracts issued~~  
31 ~~during the preceding fiscal year, the number canceled or~~  
32 ~~expired during the year, the number in effect at year end and~~  
33 ~~the amount of residential service contract fees received.~~

34 ~~3.~~ 2. Any other information relating to the performance  
35 and solvency of the ~~residential~~ service company required by the

1 commissioner.

2 Sec. 12. Section 523C.16, Code 2019, is amended to read as  
3 follows:

4 **523C.16 Exclusions.**

5 This chapter does not apply to any of the following and the  
6 following do not constitute the practice of insurance:

7 1. A performance guarantee given by a builder of a residence  
8 or the manufacturer or seller or lessor of residential property  
9 if no identifiable charge is made for the guarantee.

10 2. A residential service contract, guarantee or warranty  
11 between a residential customer and a service company which will  
12 perform the work itself and not through subcontractors for  
13 the service, repair or replacement of residential property,  
14 appliances, or electrical, plumbing, heating, cooling or  
15 air-conditioning systems.

16 3. A contract between a service company issuing residential  
17 service contracts and a person who actually performs the  
18 maintenance, repairs, or replacements of structural components,  
19 or appliances, or electrical, plumbing, heating, cooling, or  
20 air-conditioning systems, if someone other than the service  
21 company actually performs these functions.

22 4. A residential service contract, guarantee or warranty  
23 issued by a retail merchant to a retail customer, guaranteeing  
24 or warranting the repair, service or replacement of appliances  
25 or electrical, plumbing, heating, cooling or air-conditioning  
26 systems sold by said retail merchant.

27 5. A residential service contract, guarantee, or warranty  
28 issued by a manufacturer, third party, or retail company,  
29 covering the repair, maintenance, or replacement of residential  
30 property, individual appliances, and other individual items  
31 of merchandise marketed and sold by a retail company, in the  
32 ordinary course of business.

33 6. A motor vehicle service contract issued by the  
34 manufacturer or importer of the motor vehicle covered by  
35 the service contract or to any third party acting in an

1 administrative capacity on the manufacturer's behalf in  
2 connection with that service contract.

3 7. A residential service contract involving residential  
4 property containing more than four dwelling units.

5 8. A warranty.

6 9. A motor vehicle service contract issued, offered for  
7 sale, or sold to any person other than a consumer.

8 10. A maintenance agreement.

9 Sec. 13. Section 523C.17, Code 2019, is amended to read as  
10 follows:

11 **523C.17 Lending institutions, ~~service companies, and~~**  
12 **~~insurance companies.~~**

13 A bank, savings association, insurance company, or other  
14 lending institution shall not require the purchase of a motor  
15 vehicle service contract or residential service contract as  
16 a condition of a loan or the sale of any property or motor  
17 vehicle. ~~A service company or an insurer, either directly or~~  
18 ~~indirectly, as a part of any real property transaction in which~~  
19 ~~a residential service contract will be issued, purchased, or~~  
20 ~~acquired, shall not require that a residential service contract~~  
21 ~~be issued, purchased, or acquired in conjunction with or as a~~  
22 ~~condition precedent to the issuance, purchase, or acquisition,~~  
23 ~~by any person, of a policy of insurance. A lending institution~~  
24 ~~shall not sell a residential service contract to a borrower~~  
25 ~~unless the borrower signs an affidavit acknowledging that~~  
26 ~~the purchase is not required.~~ Violation of **this section** is  
27 punishable as provided in **section 523C.13.**

28 Sec. 14. Section 523C.22, Code 2019, is amended to read as  
29 follows:

30 **523C.22 Claim procedures.**

31 A licensed service company shall promptly provide a written  
32 explanation to the ~~residential customer~~ service contract  
33 holder, describing the reasons for denying a claim or for the  
34 offer of a compromise settlement, based on all relevant facts  
35 or legal requirements and referring to applicable provisions of

1 the ~~residential~~ service contract.

2     Sec. 15. NEW SECTION.   **523C.24   Service company oversight**  
3 **fund.**

4     1. A service company oversight fund is created in the  
5 state treasury as a separate fund under the control of the  
6 commissioner. The fund shall consist of all moneys deposited  
7 in the fund pursuant to subsection 2.

8     2. The commissioner shall deposit in the service company  
9 oversight fund an amount equal to one-third of all licensing,  
10 examination, renewal, and inspection fees collected under this  
11 chapter, provided that the maximum amount of fees deposited  
12 in the fund each fiscal year shall not exceed five hundred  
13 thousand dollars. Any remaining fees collected under this  
14 chapter and not deposited in the service company oversight fund  
15 shall be deposited as provided in section 505.7.

16     3. Moneys in the service company oversight fund are  
17 appropriated to the commissioner for the administration and  
18 enforcement of this chapter, and for establishing service  
19 contract consumer complaint, education, and outreach programs.

20     4. Notwithstanding section 12C.7, subsection 2, interest or  
21 earnings on moneys deposited in the service company oversight  
22 fund shall be credited to the fund. Notwithstanding section  
23 8.33, moneys credited to the fund shall not revert at the close  
24 of a fiscal year.

25     Sec. 16. REPEAL. Chapter 516E, Code 2019, is repealed.

26     Sec. 17. REPEAL. Sections 523C.8, 523C.8A, 523C.11,  
27 523C.14, and 523C.18, Code 2019, are repealed.

28     Sec. 18. EMERGENCY RULES. The commissioner of insurance  
29 may adopt emergency rules under section 17A.4, subsection 3,  
30 and section 17A.5, subsection 2, paragraph "b", to implement  
31 the provisions of this Act and the rules shall be effective  
32 immediately upon filing unless a later date is specified in the  
33 rules. Any rules adopted in accordance with this section shall  
34 also be published as a notice of intended action as provided  
35 in section 17A.4.

1     Sec. 19.   EFFECTIVE DATE.   This Act, being deemed of  
2 immediate importance, takes effect upon enactment.>

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ZACH NUNN